

**AMERICAN
LAND TITLE
ASSOCIATION**



November 5, 2003

The Hon. Richard H. Baker
Chairman
Subcommittee on Capital Markets, Insurance &
Government Sponsored Enterprises
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Baker:

We respectfully request that the attached statement on behalf of the American Land Title Association (“ALTA”)* be included in the record of the hearings held by the Subcommittee on “Reforming Insurance Regulation-Making the Marketplace More Competitive for Consumers.”


ALTA notes that state regulation of insurance is particularly appropriate for title insurance because the underwriting of title insurance involves a review and assessment of state and local records affecting titles to real estate. Consumers are protected by title insurance policies that are issued in connection with inherently local transactions – real estate settlements and mortgage loan closings. The practices and processes by which title insurance is issued vary from state to state in accordance with state real property and foreclosure law and state and local systems for recording mortgage and child support liens. Uniform licensing of agents would result in standards lower than those currently in effect, or force agents to learn laws inapplicable to the majority of the transactions they insure. We are encouraged that the NAIC has made significant progress toward standardizing laws and practices in many jurisdictions, and believe

* The American Land Title Association membership is composed of 2,400 title insurance companies, their agents, independent abstracters and attorneys who search, examine, and insure land titles to protect owners and mortgage lenders against losses from defects in titles. Many of these companies also provide additional real estate information services, such as tax search, flood certification, tax filing, and credit reporting services. These firms and individuals employ nearly 100,000 individuals and operate in every county in the country.

that these actions improve the state regulatory environment so that Federal preemption of state law is unnecessary.

We appreciate the opportunity to work with the Committee on this important issue. If you have any questions, please feel free to contact me on (202) 296-3671.

Sincerely,

A handwritten signature in black ink that reads "Ann vom Eigen". The signature is written in a cursive, flowing style.

Ann vom Eigen
Legislative and Regulatory Counsel



Statement of the American Land Title Association
on
“Reforming Insurance Regulations-Making the Marketplace more Competitive for Consumers”

The American Land Title Association* represents title insurance and settlement service providers. Of all the lines of insurance, none are as inextricably linked to state and local conditions as the title insurance industry. The focus of title insurance is the protection of the interests of owners, investors, lenders and others in real estate. The underwriting of title insurance involves a review and assessment of state and local records affecting titles to real estate. Title insurance policies are issued in connection with inherently local transactions – real estate settlements and mortgage loan closings. Reflecting the diversity of state and local laws and practices regarding real estate, the practices and processes by which title insurance is issued will frequently vary from state to state, and even from region to region within a state.

As a consequence, ALTA and its members strongly believe that regulation of the title insurance industry should continue to be the province of the various states. Federal regulation of insurance, or federal chartering of insurance companies, might be appropriate for the property/casualty insurance industry – as is suggested by legislation introduced in this session by Senator Fritz Hollings (D-SC) “The Insurance Consumer Protection Act of 2003 (S. 1373). However, such regulation and chartering is unnecessary for the title insurance industry, and would only serve to undermine the effectiveness of state regulation of our industry.

That is not to say that state regulation of title insurance cannot be improved. However, most of the concerns about state regulation that have been advanced by those who support federal chartering are simply inapplicable to title insurance. Uniform licensing of insurance companies is unnecessary given the number of companies who underwrite the title insurance product. Over one-third of the industry volume is written in California, a state where title insurance companies are highly regulated and which has stringent consumer protections.

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Uniform licensing of agents is counterproductive, given the various type of agents through which title insurance is provided in different states and regions of the country and the variety of laws, which they learn. Any Federal regulations should set standards as high as current state law requirements. In many areas of the country, title insurance is provided through attorneys, who perform the title and legal and advocacy work associated with commercial and residential real estate settlements. Attorneys are licensed and disciplined through their state bar associations, do not require national licensing supervision. It would be counterproductive and illogical to require Federally licensed title insurance agents doing business in Ohio to learn South Carolina real property law, and senseless for a Federal agency to establish Federal regulations that would reflect variations in the real property law of the 50 states.

ALTA believes that problems that arise with insureds are best handled at the state level. Title claims relate to the specific real property involved. It is unlikely that Federal agencies would be in a better position to remedy these specific problems than local courts. Further, some title problems are solved through such methods as remedying foreclosures that reflect state specific law. Again, this is an area where Federal regulators are unlikely to have better expertise than state regulators.

Solvency issues are also best addressed at the state level. In fact, title insurance companies are so well regulated at the state level that only one state—Texas-- has established a state guaranty fund.

In sum, we do not believe that there is a need for alternative federal chartering of title insurance companies, or for greater federal regulation of the title insurance industry. We look forward to working with the Committee as work on this issue proceeds.